

P-430/AR-95-1049

NOTICE OF FILING, ORDER ESTABLISHING PROCEDURES, AND ORDER
CONVENING SETTLEMENT CONFERENCE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs
Tom Burton
Marshall Johnson
Dee Knaak
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Petition by United
Telephone Company of Minnesota Requesting
Adoption of an Alternative Regulation Plan

ISSUE DATE: October 31, 1995

DOCKET NO. P-430/AR-95-1049

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PROCEDURAL HISTORY

On October 10, 1995 United Telephone Company of Minnesota (United or the Company) filed a proposed alternative regulation plan under new legislation codified at Minn. Stat. §§ 237.76 through 237.772.

I. Alternative Regulation Plans Generally

Alternative regulation plans are intended to capture the benefits of emerging competition among local exchange carriers. These plans replace rate of return regulation with more flexible pricing procedures.

Carriers operating under alternative regulation must classify all their services as “price-regulated,” “flexibly priced,” or “nonprice regulated.” They may raise or lower rates for all but price-regulated services with minimal regulatory oversight. They may not raise rates for price-regulated services during the first three years of the plan and may raise them thereafter only under conditions detailed in the plan. They may not reduce rates for price-regulated services below long-run incremental cost at any time.

In return for increased pricing flexibility, carriers operating under alternative regulation must unbundle their intrastate services and facilities and permit interconnection with local competitors to the same extent that the Federal Communications Commission requires unbundling and interconnection for interstate purposes.

To qualify for alternative regulation a company must demonstrate that its rates and rate design are appropriate in light of the proposed plan.

The company must also demonstrate that it is in substantial compliance with Commission quality of service rules. It must establish a baseline measure of service quality for the past three years, file periodic service quality reports, and establish remedies and penalties for failure to maintain service quality at levels specified in the plan. It must make a commitment to invest in infrastructure improvements and report on its plans to deploy advanced technology, including fiber-optic and broad-band capabilities, during the life of the plan. Minn. Stat. § 237.761, subd. 8.

There are other filing requirements as well, but these are among the most fundamental.

II. Procedural Guidelines

The statute requires the Commission to act on proposed alternative regulation plans within six months, unless the Commission and the petitioning company agree to an extension. It exempts proposed plans from the normal contested case process.

The statute mandates settlement discussions, requires broad public notice, encourages public input, directs appropriate discovery. Minn. Stat. § 237.764. In short, it lays procedural foundations, expecting the Commission to complete the process of constructing workable procedures for examining proposed plans within the six month time frame.

The Commission will examine United's proposed alternative regulation plan under the procedural framework set forth below.

FINDINGS AND CONCLUSIONS

III. Notice of Filing

A. Service on Potentially Interested Persons

To ensure the broadest possible notice of this filing, the Commission will serve this Order on any person requesting a copy and on the mailing list for United's last rate investigation.¹

¹In the Matter of the Petition of the Minnesota Department of Public Service for a Commission Investigation of the Level of Rates Charged by United Telephone Company of Minnesota, Docket No. P-430/CI-94-483.

The Commission will require the Company to serve copies of its filing on the Department of Public Service and the Residential and Small Business Utilities Division of the Office of the Attorney General. The Company shall also serve the filing or its summary on all parties to its last rate case and on any applicable general service list under the Commission's Rules of Practice and Procedure. Minn. Rules, part 7829.0600.

Other persons wishing to receive a copy of the plan may contact the Company and request one. The Company's address and telephone number are as follows:

United Telephone Company of Minnesota
1630 World Trade Center
30 East Seventh Street
St. Paul, Minnesota 55101
(612) 221-1047 or (800) 326-1022

B. Public Notice

The Commission will require the Company to publish, as a display advertisement, a notice of the filing in each daily newspaper of general circulation in its service area. The notice shall be in the form attached and shall be published twice, once two weeks before the public meeting in the newspaper's area (scheduled below) and again two days before the meeting.

The Company shall also mail notice of the filing to the city clerk or city administrator of every municipality in its service area. That notice, too, shall be in the form attached.

Within 14 days of the date of this Order, the Company shall file a list of the newspapers in which the notice will be published, with anticipated publication dates, and a list of the city clerks and city administrators the Company intends to notify.

Finally, the Company shall notify all customers, by billing insert or separate mailing, that it has filed a proposed alternative regulation plan. This notice shall be given no later than two weeks before the first scheduled public meeting.

IV. Rules of Practice and Procedure to Control

The Commission's Rules of Practice and Procedure, Minn. Rules, Chapter 7829, control this proceeding, except to the extent that they are superseded by statute or inconsistent with the terms of this Order or subsequent Orders issued in this case.

Copies of the Rules of Practice and Procedure may be obtained from the Print Communications Division of the Department of Administration or from the Department of Public Service. Their addresses and telephone numbers are as follows:

Print Communications Division
Department of Administration

Department of Public Service
200 Metro Square Building

117 University Avenue
St. Paul, Minnesota 55155
(612) 297-3000

121 7th Place East
St. Paul, Minnesota 55101
(612) 296-6913

V. Participation in Proceeding

Persons wishing to participate in this proceeding shall file the attached Declaration of Interest Form within 10 days of the date of this Order. Persons wishing to participate thereafter must file petitions to intervene under Minn. Rules, part 7829.0800. Such petitions must be filed within 20 days of the date of this Order.

Persons participating in this proceeding will be “interested persons” under Minn. Stat. § 237.61.

VI. Service and Filing Requirements

The Commission will establish and maintain the official service list for this case. The list will include all persons filing Declaration of Interest forms and all persons whose petitions to intervene have been granted by the Commission. The Commission will mail the official service list to all interested persons as soon as it is compiled and whenever it is changed.

Service and filing requirements are set forth in the Commission’s Rules of Practice and Procedure, Minn. Rules, Chapter 7829, which all parties are urged to consult. The rules include some requirements specific to utility regulation. For example, they require 15 copies of all documents filed with the Commission. They also provide that service upon the Department of Public Service is effective only upon receipt, while service on other persons is generally effective upon mailing or facsimile transmission.

VII. Challenges to Adequacy of the Filing

Any challenge to the completeness or formal adequacy of the Company’s filing under Minn. Stat. §§ 237.76 et seq. shall be filed within 20 days of the date of this Order. Any response to such challenge shall be filed within 10 days of the expiration of that 20 day period.

If the Company’s filing is not rejected within 50 days of the date of this Order, it will be deemed in substantial compliance with applicable filing requirements.

VIII. Protective Order to Follow

The Commission expects that proprietary and trade secret information will be entered into the record in this case and will enter a protective order to prevent improper disclosure. Interested persons may file proposed protective orders within 20 days of the date of this Order.

IX. Discovery Procedures

All interested persons in this proceeding may serve information requests on all other interested persons. Commission staff may serve information requests on any interested person.

Information requests shall be filed with the Commission and served on all interested persons. They shall be answered within eight business days of receipt, including receipt by facsimile transmission.

X. Settlement Conference Convened

The statute requires the Commission to convene a settlement conference. The Commission will direct the Company to schedule a series of meetings to explore the possibility of settling or stipulating issues that might otherwise be disputed.

The Company shall file a meeting schedule within 14 days of the date of this Order. It shall file reports on the progress of settlement negotiations within 30 days of the initial settlement meeting and every 30 days thereafter.

Any settlement documents filed with the Commission shall include a full explanation of how the settlement, on its merits, furthers the public interest.

XI. Public Meetings Scheduled

Public comment is crucial to making an informed decision on the Company's proposed plan. Two of the prerequisites of alternative regulation -- maintaining service quality and improving infrastructure -- involve issues on which customer input is critical. The Commission will therefore hold public meetings throughout the Company's service area, as set forth below.

- Plainview -- Thursday, November 16, 1995, 7:00 p.m.
- Alexandria -- Monday, November 20, 1995, 7:00 p.m.
- Chaska -- Tuesday, November 21, 1995, 7:00 p.m.

An Administrative Law Judge from the Office of Administrative Hearings will conduct the public meetings and report back to the Commission.

XII. Further Proceedings

The statute exempts proposed alternative regulation plans from contested case proceedings requirements, instead requiring an expedited proceeding under Minn. Stat. § 237.61. Minn. Stat. § 237.764, subd. 1. In expedited proceedings, the Commission must give interested persons an opportunity to present statements of fact and argument and to reply to the statements of fact and arguments of others. In expedited proceedings the pleadings must be verified and statements of fact must be made under oath or affirmation. Minn. Stat. § 237.61.

Further procedural orders may be necessary in this case, but present procedural requirements are as follows. Comments on the merits of the Company's proposed plan shall be filed within

90 days of the date the plan was filed. Reply comments shall be filed within 30 days thereafter. Responses to reply comments shall be filed within 10 days of the expiration of the reply comment period.

The Commission will then schedule a hearing on the merits. That hearing will largely consist of oral argument, but interested persons shall ensure that their expert witnesses are present to answer questions. The Commission will issue a decision on the merits within the six-month statutory deadline, subject to any extensions to which the Commission and Company may agree.

XIII. Executive Secretary Authorized to Vary Time Lines

The Commission delegates to its Executive Secretary the authority to vary time lines set under this Order. It has previously, by standing Order, delegated to him the authority to vary time lines under the Commission's Rules of Practice and Procedure.

XIV. Staff Authorized to Answer Questions

Interested persons and members of the public may direct questions regarding this proceeding to Commission staff members Lee Larson and Lillian Brion. Their telephone numbers are (612) 296-1334 and (612) 297-7864, respectively.

XV. Ex Parte Communications

Restrictions on ex parte communications with Commissioners and reporting requirements regarding such communications with Commission staff apply to this proceeding from the date of this Order. These restrictions and reporting requirements are set forth at Minn. Rules, parts 7845.7300-7845.7400, which all parties are urged to consult.

XVI. Ethics in Government Act

The lobbying provisions of the Ethics in Government Act, Minn. Stat. §§ 10A.01 et seq. apply to rate setting proceedings. Persons appearing in this proceeding may be subject to registration, reporting, and other requirements set forth in that Act. All persons appearing in this case are urged to refer to the Act and to contact the Minnesota Ethical Practices Board with any questions. The Board's address and telephone number are as follows:

Minnesota Ethical Practices Board
First Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
(612) 296-5148

ORDER

1. Notice is hereby given that United Telephone Company of Minnesota has filed an alternative regulation plan under Minn. Stat. §§ 237.76 through 237.772.
2. Notice is hereby given that the Commission will examine and act on the filing under the procedural framework set forth above.
3. The Company shall comply with all requirements set forth in the body of this Order.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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This document can be made available in alternative formats (i.e., large print or audio tape) by calling (612) 297-1200 (TDD/TTY) or 1 (800) 657-3782.

